TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 311.

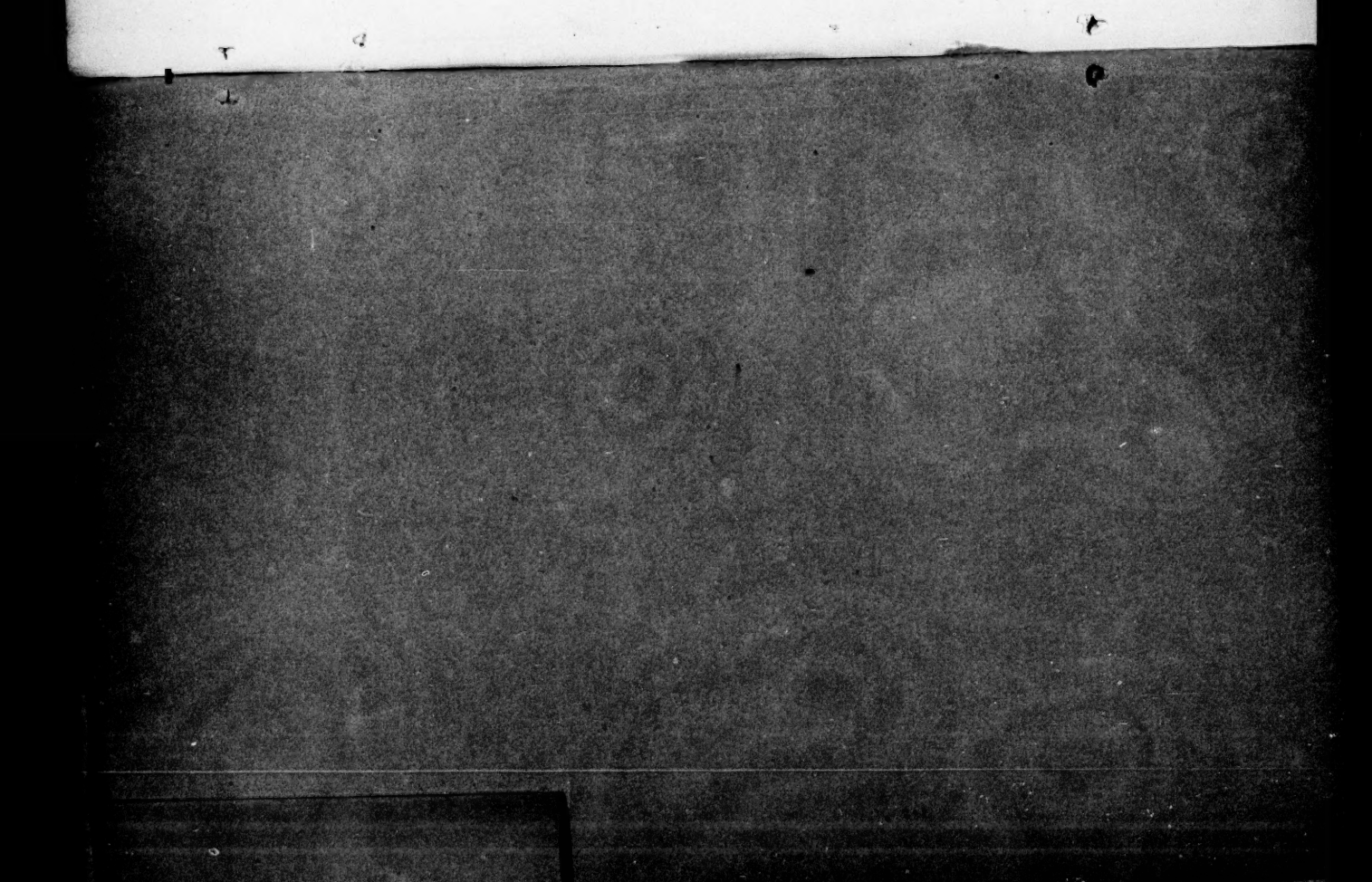
THE COUNTY OF GREENE, STATE OF ALABAMA, PLAINTIFF IN ERROR,

vs.

RICHARD C. DANIEL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ALABAMA.

FILED OCTOBER 16, 1877.



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a UNITED STATES OF AMERICA, *ss* :

The President of the United States, to the honorable the judge of the circuit court of the United States for the southern district of Alabama, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you between Richard C. Daniel, of the city of Memphis, and State of Tennessee, and the county of Greene, one of the counties of the State of Alabama, a manifest error hath happened to the great damage of the said county of Greene, as by its complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of October next, in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 28th day of May, in the year of our Lord one thousand eight hundred and seventy-seven.

[SEAL.]

N. W. TRIMBLE,
Clerk of the Circuit Court of the United States
for the Southern District of Alabama.

Allowed by—

W. B. WOODS,
U. S. Circuit Judge.

(Indorsed:) Filed May 28th, 1877. N. W. Trimble, clerk.

b *Notice of the granting of a writ of error & citation to appear at the Supreme Court.*

RICHARD C. DANIEL
vs.
COUNTY OF GREENE.

To Richard C. Daniel, or Samuel F. Rice, his attorney:

Take notice that you are hereby cited & admonished to be and appear at a Supreme Court of the United States, to be holden on the second Monday of October next, in Washington, in the District of Columbia, there to show cause, if any there be, why the judgment rendered in the above entitled cause by the honorable circuit court for the southern district of Alabama should not be reversed pursuant to a writ of error this 26th day of May, 1877, granted to defendant.

Witness my hand this 26th day of May, A. D. 1877.

W. B. WOODS,
Judge of the Circuit Court of the United States
for the Southern District of Alabama.

c UNITED STATES OF AMERICA,
Southern District of Alabama:

Personally appeared before me Henry S. Skaats, who being duly sworn says, that he served a true copy of the within notice on Samuel F. Rice, attorney, by personally handing the same to him on the 20th day of June 1877.

HENRY S. SKAATS.

Subscribed and sworn to before me this 20th day of June, 1877.
JNO. H. WALLACE,
U. S. Commissioner, So. Dist. of Ala.

(Indorsed:) Richard C. Daniel vs. The County of Greene. Notice of appeal. Filed May 28th, 1877. N. W. Trimble, clerk.

1 *Complaint.*

No. 532.

UNITED STATES OF AMERICA:

In the circuit court of the United States for the southern district of Alabama. June term, 1876.

Richard C. Daniel, who is a citizen of the State of Tennessee, complains of the county of Greene, a municipal corporation, only organized and existing under and by virtue of the laws of the State of Alabama, which said corporation is a citizen of the State of Alabama, and of the district aforesaid, and thereupon the plaintiff claims of the defendant, which is a corporation *only* incorporated and treated as such by the laws of the State of Alabama, the sum of forty-three hundred and twenty dollars, being the amount of principal due upon and for two hundred and sixteen coupons which were attached to fifty bonds of said corporation, which said bonds are numbered from fifty to one hundred, both inclusive, as follows, to wit: eighty of said coupons were attached to
2 the said bonds of the said corporation numbered from, to sixty-six, both inclusive, and one hundred and thirty six of said coupons were attached to the bonds of said corporation numbered from sixty-seven to one hundred, both inclusive. Each of the said bonds being in legal effect and substance as follows:

UNITED STATES OF AMERICA.

500 dollars. ($500.) 500 dollars.

State of Alabama Green County bond.

Issued in payment of stock of the Selma, Marion and Memphis Railroad Company.

Twenty years.

Know all men by these presents, that the county of Green, in the State of Alabama, acknowledge' itself indebted and firmly bound to the Selma, Marion and Memphis Railroad Company or bearer, at the office of the said company or their agency in the city of New York, in the

State of New York, on the first day of January, A. D. 1890, together with interest thereon from the first day of January, 1870, at the
3 rate of eight per cent. per annum, which interest shall be payable semi-annually, on the presentation and delivery of the attached interest coupons, at the office of the said company, or their said agency. This bond is issued under and pursuant to an order of the court of county commissioners of said Green County, made under authority of the constitution of the State of Alabama and the laws of the legislature of the State of Alabama, authorized by a vote of the people of said county, at a special election held for the purpose September 14th, 1867. In testimony whereof the said county of Green has executed this bond by the judge of probate court of said county, who is ex officio presiding officer of the court of county commissioners, under the order of said court, signing his name thereto
[COUNTY SEAL.] under the order thereof, attesting the same and affixing thereto the seal of said court.

This done at the town of Eutaw, county of Green, this 1st day of January, 1877.

Attest:

[SEAL.]

A. R. DAVIS,
4 *Judge of Probate Court and ex officio the presiding officer Court of County Commissioners, Green County, Alabama.*

[State stamp one dollar canceled.]

Attached to each of said bonds were forty coupons, numbered from one to forty. The first coupon on each of said bonds being in substance and legal effect as follows:

$20.

The county of Green, in the State of Alabama, will pay the holder hereof, on the first day of July, 1870, twenty dollars, on presentation at the office of the Selma, Marion and Memphis Railroad Company, in the city of Memphis, Tennessee, or their agency in the city of New York, for six months' interest on bond.

A. R. DAVIS,
Judge of Green County.

All of the other coupons on said bonds were of the same substance and legal effect, with the exception of the dates of payments thereof, the first coupon on each of said bonds being payable as aforesaid on the 1st day of July, 1870, and one of each coupons successively fall-
5 ing due semi-annually thereafter until, and up to, and including the first day of January, 1800. There are now due on said fifty bonds two hundred and sixteen coupons which are unpaid, besides those not yet matured, being five coupons on each of said bonds, numbered from fifty-two to sixty-six, both inclusive, and five coupons on bond numbered ninety-four, and four coupons due on each of the said bonds numbered from sixty-seven to ninety-three, both inclusive, and four coupons due on each of said bonds numbered from ninety-five to one hundred, both inclusive, and four coupons on the said bond numbered fifty-one. All and each of said coupons are unpaid, and each of said coupons being for twenty dollars, and were attached to the bonds of the said defendant as above described, and numbered from fifty-one to one hundred, both inclusive; the said coupons being numbered to correspond with the numbers on each of the said bonds, and which
6 coupons are sued on in this action.

The said five coupons which were attached to each of the said bonds numbered from fifty-two to sixty-six, both inclusive, fell due respectively on the 1st day of July, 1873, the first day of January and July, 1874, and the 1st day of January and July, 1875, and the coupons which were attached to the bond numbered fifty-one fell due on the 1st day of July, 1873, the 1st day of January, 1875, the 1st day of July, 1875, and the 1st day of January 1876; and the coupons which were attached to the said bond numbered ninety-four, fell due the 1st day of July, 1873, the 1st day of July and January, 1874, and the 1st day of January and the 1st day of July, 1875; and the said coupons which were attached to the bonds numbered from sixty-seven to ninety-three, both inclusive, and the coupons which were attached to the said bonds numbered from ninety-five to one hundred, both inclusive, fell due respectively on the 1st day of January and July, 1874, and the 1st day of January
7 and July, 1875, which said coupons amount in the aggregate to the sum of four thousand three hundred and twenty dollars.

The said plaintiff avers that each and every one of said coupons, to wit, said two hundred and sixteen coupons above described, together with interest thereon from the dates at which they respectively fell due, are still due and unpaid. And the said plaintiff avers that he is the bona fide owner and holder of said coupons above described, which, together with the said bonds to which they were attached, were executed and put in circulation by the said defendant, and the said coupons now sued on were purchased by the plaintiff for value, before any of them fell due.

The plaintiff avers that at the time when said coupons fell due the said defendant had no office in the city of Memphis, Tennessee, and no agency in the city of New York; and the said plaintiff avers that
8 said defendant at the time when said coupons respectively fell due had no funds either in Memphis or New York to pay said coupons at the time the same fell due.

This suit is brought to recover the amount of the principal and interest on said two hundred and sixteen coupons, as described in this complaint as due and unpaid.

SAYRE & GRAVES AND
SAM'L F. RICE,
Pl'ff's Att'ys.

UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.

The President of the United States of America to the marshal of said district, greeting:

You are hereby commanded to summon The County of Green, a municipal corporation, created, organized, and existing under and by virtue of the laws of Alabama, and which said county of Green who is a citi-
9 zen of the State of Alabama, to appear before the honorable circuit court aforesaid, at the place of holding said court, at Mobile, on the first Monday of June next, to answer the complaint of Richard C. Daniel, who is a citizen of the State of Tennessee, and have you then and there this writ.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, the sixth day of May, in the year of our Lord one thousand eight hundred and seventy-six.

Issued *a* the day of May, in the year of our Lord one thousand eight hundred and seventy-six.

Attest:

{ UNITED STATES CIR- } { CUIT COURT SEAL. }

N. W. TRIMBLE,
Clerk U. S. Circuit Court Southern District of Alabama.

Received in office this eig'th day of May, 1876.

GEORGE TURNER,
U. S. Marshal.

Executed the within summons & complaint on the defendant
10 by delivering to and leaving with the Hon. Thos. W. Roberts, judge of the probate court of Green County, at Eutaw, in said county, and State of Alabama, a copy of the same on the 10th day of May, '76.

GEORGE TURNER,
U. S. Marshal,
By WINTER P. HALL,
Special Deputy.

Summons and complaint.

RICHARD C. DANIEL
vs.
GREEN COUNTY, ALABAMA.

Circuit court of the United States, southern district of Alabama.

Issued this sixth day of May, 1876. Returned and filed May 11th, 1876.

N. W. TRIMBLE, *Clerk.*

11 *Order allowing time to file pleas.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

THURSDAY MORNING, *June 8th*, 1876.

RICHARD C. DANIEL
vs.
COUNTY OF GREEN.

In this cause the defendant is allowed twenty days from date within which to file pleas.

12 *Demurrer to complaint.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

RICHARD C. DANIEL, PLAINTIFF,
vs.
GREEN COUNTY, DEFENDANT.

The defendant, by its attorneys, comes and demurs to the plaintiff's

complaint, and for cause of demurrer says, that it appears by plaintiff's complaint in this cause that the suit is against the county of Green, one of the counties of the State of Alabama, and it is not alleged in said complaint that the demand sued on has ever been presented to the court of county commissioners of said county as provided by the statutes of Alabama.

And for further cause of demurrer to plaintiff's said complaint says, that it does not appear by said complaint that the plaintiff's
13 demand sued upon was before the bringing of his suit presented to the court of county commissioners of said county, and either disallowed or reduced by such county and refused by said Richard C. Daniel, as provided by the statutes of Alabama.

SNEDECOR & COCKRELL, and
R. H. R. INGE & G. L. SMITH,
Att'ys for Defendant.

Filed June 27, 1876.

N. W. TRIMBLE, *Clerk.*

14 *Plea No.* 1.

In the circuit court of the United States for the southern district of Alabama.

RICHARD C. DANIELL, PLAINTIFF,
vs.
GREEN COUNTY, DEFENDANT.

And for plea in this behalf the defendant says that the bonds and coupons mentioned and declared on in the plaintiff's complaint were given in payment of the pretended subscription by said county of Green to the stock of the Selma, Marion and Memphis Railroad Company, and that the only authority of said county of Green to subscribe to said stock and to issue said bonds & coupons is found in an act of the general assembly of State of Alabama, approved December the 31st, 1868, entitled "An act to authorize the several counties and towns and cities of the State of Alabama to subscribe to the stock of such railroads throughout the State as they may consider most con-
15 ducive to their respective interests;" and that said pretended bonds and coupons were issued upon proceedings taken by the commissioners' court of said county of Green, of which a duly certified transcript is hereto appended and made a part of this plea, and said defendant says that said bonds & coupons were issued under no other authority and by virtue of no other proceedings, wherefore defendant says that the said bonds and coupons are not the bonds and coupons of the said county of Green.

STATE OF ALABAMA,
County of Green:

Personally appeared before, me Thomas W. Roberts, judge of the probate court of said county, James B. Head, who, being by me first duly sworn, deposes and says that the matters and things above s't forth are true in substance and in fact.

J. B. HEAD.

Sworn to and subscribed before me this the 2nd day of Jan'y, A. D. 1877.

THOS. W. ROBERTS, *Judge.*

16 *Plea No. 2.*

And for a further plea in this behalf, defendant says that said pretended coupons declared upon, and the pretended bonds to which they were attached, were issued as set forth in the last proceeding plea numbered 1. And the said defendant says that before the pretended subscription by the said county of Green to the stock of the said Selma, Marion and Memphis Railroad Company, and while the proposition for such subscription was pending before the said qualified electors of said county of Green, and to induce the said qualified electors in the said county of Green to vote for said then proposed subscription mentioned in said record and made part of plea No. 2, and also made a part of this plea, the said Selma, Marion and Memphis Railroad Company did, through its officers and agents, make various public speeches and other representations to said qualified electors, whereby it falsely and
17 fraudulently represented to said qualified electors that the proceeds of the bonds and coupons proposed to be issued, as shown by said record, should be solely expended in constructing said railroad in and through said county of Green, and by such representations induced the voters of said county to vote for said subscription of stock and issuance of bonds and coupons shown by said record; nevertheless the defendant says, said bonds or the money arising therefrom was otherwise wholly expended and applied by said railroad company to other uses, and said railroad has not been in whole or in any part constructed in said county of Green, and that said railroad company is wholly insolvent, and has ceased to be built without reaching the said county of Green; and the defendant says that the plaintiff, before he acquired said coupons mentioned and declared on in plaintiff's complaint, had
18 notice that said promises and representations had been made and that said railroad company did not intend to keep or had not kept its said representations and promises, but that said coupons and the bonds to which they belong, or the money realized therefrom, would be or had applied or expended for purposes whol'y different from constructing said road in said county.

Plea No. 3.

And for further plea in this behalf the defendant pleads the same facts pleaded in the last above plea, numbered 2, with the additional allegation that said coupons declared on were acquired by the plaintiff from said railroad company.

Plea No. 4.

And for further plea in this behalf, defendant pleads the same facts set forth in his first plea and in the record contained in said plea, and the defendant further says that the plaintiff is not a bona fide purchaser for value, without notice of the fact set forth in said record and
19 made a part of said first plea and of this plea, but on the contrary acquired the coupons declared upon and the bonds to which they were attached with notice of said facts.

Plea No. 5.

And for further plea in this behalf, the defendant pleads the matters set forth in said first plea and in the record thereto appended, and made

a part thereof and of this plea; and further says that the plaintiff is not a bona fide purchaser for value of the coupons by him declared on.

SNEDECOR & COCKRELL,
R. H. R. INGE, &
G. L. SMITH,
Att'ys for Defendant.

20 Court of county commissioners, August term, 1869.

THE STATE OF ALABAMA,
Green County:

At a regular term of the commissioners' court, begun and held in and for the county and State aforesaid, at the court-house thereof in the town of Eutaw, on Monday, the 9th day of August, 1869, being the 2nd Monday of said month, present, the hon'b's A. R. Davis, judge of probate, James G. Harris, D. R. Anthony, and Wm. F. Parham, commissioners, the following proceedings were had:

Gen'l N. B. Forest, pres't S., M. & M. R. R. Co. Proposition, Green County.

Whereas the president and directors of the Selma, Marion and Memphis Railroad Company have this day submitted to the commissioners' court of Green County a proposition for a county subscription by said county of eighty thousand dollars to the capital stock of said rail-
21 road company, and made application to said court to order an election within sixty days from this date, to submit the said proposition of said railroad company to the qualified electors of said county for their acceptance or rejection in pursuance of the provisions of an act of the general assembly of the State of Alabama, entitled "An act to authorize the several counties, towns, and cities of the State of Alabama to subscribe to the capital stock of such railroad through the State as they may consider most conducive to their interests," approved December 31st, 1868, the said proposition being that said county shall subscribe ($80,000) eighty thousand dollars to the capital stock of said company at fifty dollars ($50.00) per share, to be paid in the bonds of said county, payable to said railroad company or bearer in sums of one thousand five hundred dollars each, & due ten and twenty years after date thereof. with interest coupons attached for interest on each
22 of said bonds at the rate of eight per cent. per *per* annum to be paid semi annually.

It is now therefore considered and ordered by the court that the said application be and the same is hereby granted. And it is further ordered by the court that such an election shall be held in the several precincts of said county as established by law, on Tuesday, the 14th day of September, 1869, and shall be conducted by the same officers and in the same manner as provided by law for gen'l elections in this State. And it is further ordered by the court a that at least thirty days' notice of said election & the terms and amount of the proposed subscription as hereinbefore stated, shall be given by hand-bills and notices of the election to be posted by the sheriff as the law requires; and it is further ordered by the court that printed ballots with the word "Subscription," and other ballots with the words "No subscription," shall be pre-
23 pared for the use of the voters of the county and to be distributed by the sheriff and his officers.

The sheriff of said county and his returning officers will make due

returns of the result of said election within three days thereafter to the probate judge of said county.

Court of county commissioners, December term, 1869.

THE STATE OF ALABAMA,
Green County:

At a court of county commissioners begun and held in and for Green County aforesaid, at the court-house thereof in Eutaw, on the third Monday of December, A. D. one thousand eight hundred and sixty-nine, being the twentieth day of said month. Present, the Hon. Attoway B. Davis, judge of the probate court of said county, and James B. Harris and David R. Anthony, esquires, county commissioners of said county, notice thereof having been given by advertisement in the Whig
24 and Observer, a newspaper published in said county for ten days previous.

Whereas an order was made by this court on the ninth day of August, 1869, by which the proposition in writing of the president and directors of the Selma, Marion and Memphis Railroad Company, for a county subscription by the county of Green of eighty thousand dollars to the capital stock of said railroad company, was submitted to the qualified electors of said county at an election held at the several precincts in said county on the 14th day of September, 1869, conducted by the same officers and in the same manner as provided by law for general elections in this State, after giving thirty days' notice thereof, as required by law; and whereas it appears to the court from the returns of the sheriff of said county that such election was held on the 14th day of September, 1869, in pursuance of the said order, and it also appearing
25 to the court by the returns of said election made to the judge of the probate court of said county that the said election thus held resulted in favor of the said proposition and subscription to the capital stock of said company, as will more fully appear from a certified copy of the said returns and said election made to this court, and given under the hand of A. R. Davis, judge of probate court of said county.

It is now ordered by the court that the said proposition and the returns of the said election, with the certificate of the Hon. A. R. Davis, as judge aforesaid, be received and recorded on the minutes of this court.

And it is further ordered that the *the* proposition of the said company be, and the same is hereby, accepted, and the said court of county commissioners are hereby authorized and do make, in the name and for the said county of Green, the said subscription of eighty thousand
26 dollars to the capital stock of said company in the name set forth in said proposition; and it is further ordered by said court that the bonds of the said county of Green, in the sums of five hundred dollars each, with interest coupons attached for semi-annual interest at the rate of eight per cent. per annum, the said bonds payable to the said company or bearer at twenty years from date, and dated the first day of January, 1870, and due and payable the 1st day of January, 1890, at the office of the said company, or at their office or agency in the city of New York when presented at the office of the said company or their agency, shall be issued and delivered to the said company, signed by the probate judge of said county, and that the said coupons thereto attached of twenty dollars each shall be signed by the

said judge, payable in like manner on the first day of January and July of each year from and after the date of said bonds.

27 And it is further ordered that the president of the said railroad company be, and he is hereby, authorized to have the said bonds, with the coupons attached, prepared and printed as soon as practicable, in conformity to the foregoing order.

S., M. & M. R. R. To the court of county commissioners of the county of Green. Proposition to subscribe the capital stock of said R. R. Co.

To the honorable the court of county commissioners of Green County, in the State of Alabama:

We, the president and a majority of the board of directors of the Selma, Marion and Memphis Railroad Company, in pursuance of the provisions of an act of the legislature of the State of Alabama, entitled "An act to authorize the several counties and towns and cities of the State of Alabama to subscribe to the capital stock of such railroads throughout the State as they may consider most conducive to their respective

28 interests" approved Dec. 31st, 1868, hereby propose to the said county of Green, through your honorable body, under and by virtue of the said act of the legislature, to subscribe for and take eighty thousand dollars of the capital stock of said railroad company at fifty dollars per share, to be paid in the bonds of said county, payable to the said railroad company, or bearer, said bonds to be so payable in the sum of *one and five hundred thousand* dollars each, and due ten and twenty years after the date thereof, and bearing interest at the rate of eight per cent. per annum from date till paid, with interest coupons attached for interest on each of said bonds at the rate aforesaid, which interest is to be paid semi-annually, the amount of said in-

29 terest and bonds to be payable as aforesaid at such time and place as may be agreed upon between the said railroad company and the judge of probate of said county, as soon as may be after the acceptance of this proposition by the qualified electors of said county, at an election held for the purpose, under and by virtue of the provisions of the said act of the legislature of the State of Alabama.

All of which is respectfully submitted to your honorable court for your action, and that of the qualified electors of Green County, in the State of Alabama, thereon, and is signed by us at , in Perry County, in the State of Alabama, this the 6th day of August, in the year 1869.

SELMA, MARION & MEMPHIS RAILROAD CO.,
By N. B. FORREST,
Pres.

This is to certify that the president has the authority to sign

30 this application from the board of directors.

S. H FOULKES,
Sec'y & Treas.

Official return of an election held at the several precincts in Green County, Alabama, on the 14th day of September, 1869, on the proposition for a subscription by said county of eighty thousand dollars to the capital stock of the Selma, Marion and Memphis Railroad.

Green County.

Precinct.	Subscription.	No. subscription.		Subscription.	No. subscription.
Forkland	114	106	Pleasant Ridge	158	5
Garretts	23	52	Mt. Hebron	175	8
Eutaw	148	168	Clinton	157	00
Springfield	12	83	Boligee	110	26
Knoxville	1	61	Mantua	74	05
Union	39	36	Total	1,011	550
			Corporation of Eutaw	98	35

Attest:

C. W. ROBERTS,
Mayor.

31 STATE OF ALABAMA,
Green County:

I, Attoway R. Davis, judge of probate for said county, certify that the above and foregoing is a correct list of the votes polled at the different precincts in said county at an election held on Tuesday, the 14th day of September, 1869, for subscription and no subscription to the Selma, Marion and Memphis Railroad, and for subscription, a total of 1,011, and for no subscription, a total of 550 votes was received, leaving a majority of 461 in favor of subscription, and in Eutaw 98 for and 35 against.

Given under my hand this 16th day of September, 1869.

A. R. DAVIS, *Judge.*

32 THE STATE OF ALABAMA,
Green County:

I, Thomas W. Roberts, judge of the probate court of said county, & by virtue of said office presiding officer of the court of county commissioners do hereby certify that the above & foregoing is a true & perfect transcript of the proceedings had in said court as to subscription to the capital stock in the Selma, Marion & Memphis Railroad Company, & the official vote of said county as the same appears upon the minutes of said court of county commissioners.

Given under my hand & seal of the said court this the 15th day of June, 1876.

[SEAL.]

THO'S W. ROBERTS,
Judge.

Filed February 6, 1877.

N. W. TRIMBLE.
Clerk.

33 *Demurrers to pleas.*

In the circuit court of the United States for the southern district of Alabama.

RICHARD C. DANIELS
vs.
GREEN COUNTY.

1. And the plaintiff demurs in short by consent to said plea of defend-

ant, numbered 1, and assigns & specifies the following as the grounds his said demurrer: 1st. The said first plea does not contain any denial of the matters alleged & set forth in said complaint, or any answer to or avoidance of the plaintiff's cause of action and right to recover as set forth in said complaint; 2nd. The facts disclosed and admitted by said first plea show that said bonds & coupons were issued by the defendant, & are the acts & deed of the defendant, and that the defendant is liable for the causes of action set forth in said complaint; 3rd. The facts alleged or stated in said first plea do not constitute any answer, bar, or defence to the facts & cause of action alleged & shown in
34 said complaint; 4th. The facts stated in said first plea do not constitute any defence to this or to any action on said coupons set forth in said complaint; 5th. The said first plea does not contain any matter which answer or avoids the said complaint, or the causes of action therein set forth, or the plaintiff's right to recover in this suit upon the facts stated and shown in said complaint; all in short by consent.

The plaintiff also demurs separately to each of said other pleas of defendant, numbered respectively 2, 3, 4, 5, and as grounds for each of said demurrers, pl'ff assigns & specifies the same grounds of demurrer, mutatis mutandis, which are above assigned & specified as grounds of demurrer to said second plea.

All in short by consent.

SAYRE & GRAVES & RICE,
Att'ys for Pl'ff.

Filed February 6, 1877.

N. W. TRIMBLE, *Clerk.*

35 *Order sustaining demurrers & judgment.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

RICHARD C. DANIEL
vs.
THE COUNTY OF GREEN.

TUESDAY MORNING, *Feb'y 6th, A. D.* 1877.

This day came the parties, by their attorneys, and the defendant's demurrer to the complaint was overruled by the court.

The defendant then filed five several pleas, to each of which the plaintiff duly demurred, and after argument thereon each of these demurrers to said pleas was sustained by the court, and the defendant then declined to plead further.

It is therefore considered by the court that the plaintiff recover of the defendant the sum of five thousand and thirty-five dollars and thirty-six cents, which sum consists of the aggregate principal of the coupons sued on and described in the complaint in this case, and the lawful interest on each of said coupons from its maturity to this day.

It is further considered by the court that the plaintiff recover of the defendant the costs of this suit, and let execution issue accordingly.

36 *Petition for writ of error.*

In the circuit court of the United States for the southern district of Alabama.

To the honorable the judges of the circuit court of the United States for southern district of Alabama:

Whereas in the case of Richard C. Daniels against the county of Greene, one of the counties of the State of Alabama, a judgment in the said circuit court was, upon the sixth day of February, 1877, rendered against the said county for the sum of five thousand and thirty-five $\frac{36}{100}$ dollars, and costs; and whereas the said county has, through its court of county commissioners, determined to seek a writ of error in said cause:

Now, therefore, your petitioner prays that a writ of error may be allowed to your petitioner from the judgment of said circuit court to the Supreme Court of the United States, that error in said judgment, if any there be, may be duly corrected and full and speedy justice done to the parties aforesaid in this behalf.

37 And your petitioner hereby offers to execute its bond with good and sufficient surety to the clerk of the Supreme Court of the United States, to answer to said clerk for any and all costs that may be decreed against it in the premises.

THOS. W. ROBERTS,
Probate Judge and Ex Officio the Presiding Officer of the Court of County Commissioners of Greene County, one of the Counties of the State of Alabama.

Filed May 28th, 1877.

N. W. TRIMBLE, *Clerk.*

38 *Bond.*

Know all men by these presents that we, the county of Greene, one of the counties of the State of Alabama, executing this bond under its county seal, Thos. W. Roberts, judge of probate and presiding officer of the court of county commissioners, and Thos. L. Patton and G. C. Arrington, are held and firmly bound unto the clerk of the Supreme Court of the United States (Daniel W. Middleton) in the full and just sum of two hundred dollars, to be paid to the said clerk of the Supreme Court of the United States, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this the third day of April, A. D. 1877, in the year of our Lord one thousand eight hundred and seventy-seven.

Whereas lately at a circuit court held for the southern district of Alabama, in a suit depending in said court between Richard C. Daniel, of the city of Memphis, State of Tennessee, and the county of Greene, one of the counties of the State of Alabama, judgment for the

39 sum of five thousand and thirty-five $\frac{36}{100}$ dollars and the costs of the suit in said circuit court was rendered against the said county of Greene, and the said county of Greene having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Richard C. Daniel, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such, that if the said county of Greene shall prosecute its writ of error to effect, and answer all costs if it fail to make its plea good, then the above obligation to be void; else to remain in full force and virtue.

THOS. W. ROBERTS,
Judge Probate & Presiding Officer Court. Co. Commis.
THOS. J. PATTON.
G. C. ARRINGTON.
JOSIAH COLLINS.
R. B. DUNLAP.

Sealed and delivered in presence of—
F. M. KIRKSEY.
FRANKL. P. SNEDICOR.

Approved by—

W. B. WOODS,
U. S. Circuit Judge.

40 THE STATE OF ALABAMA,
Greene County:

Personally appeared before me, Thomas W. Roberts, judge of the probate court of said county, Thos. J. Patton, Geo. C. Arrington, and Josiah Collins and Robt. B. Dunlap, who on oath say that they are each worth, over and above all exemptions allowed by law and existing liabilities, more than the penalty of the foregoing bond.

THOS. J. PATTON.
G. C. ARRINGTON.
JOSIAH COLLINS.
R. B. DUNLAP.

Sworn to and subscribed before me this Ap'l 3rd, 1877.
THOS. W. ROBERTS, *Judge.*

THE STATE OF ALABAMA,
Greene County:

I, Thomas W. Roberts, judge of the probate court of said county, certify that Thos. J. Patton, G. C. Arrington, Josiah Collins, and R. B. Dunlap, whose names are signed to the foregoing bond and affidavit, and who are known to me, acknowledged before me that, being informed of the contents of the same, they signed the same voluntarily on the day the same bears date.

41 Given under my hand and the seal of the probate court at office in Eutaw, in said county, this the 3rd day of April, A. D. 1877.
[SEAL.] THOS. W. ROBERTS, *Judge.*

[One dollar State stamp.]
Filed May 28th, 1877.

N. W. TRIMBLE, *Clerk.*

42 In the circuit court of the United States for the southern district of Alabama:

I, N. W. Trimble, clerk of the above mentioned court, hereby certify the foregoing to be a true transcript of the papers and proceedings had in the case of Richard C. Daniel against The County of Greene, as the same remain of record and on file in my office.

In testimony whereof I hereunto subscribe my name and affix the seal of the circuit court this 17th day of September, A. D. 1877.

[SEAL.]

Clerk.

(Indorsement on cover:) No. 311. The County of Greene, State of Alabama, pl'ff in error, vs. Richard C. Daniel. S. Alabama C. C. U. S. Filed 16th October, 1877.